

Application No.: 09/808,957

Docket No.: SON-2050

Docket No.: SON-2050  
(80001-2050)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:  
Hisao HAYASHI

Application No.: 09/808,957

Art Unit: 2822

Filed: March 16, 2001

Examiner: M. Lewis

For: THIN FILM SEMICONDUCTOR DEVICE  
AND MANUFACTURING METHOD  
THEREOF

**REQUEST FOR WITHDRAWAL OF FINAL OFFICE ACTION**

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Applicant, seeking review of the prematurity of the final rejection of February 13, 2004, respectfully requests reconsideration of the finality of the Final Office Action dated February 13, 2004 for the reasons set forth hereinbelow. See M.P.E.P. §706.07(c).

The "second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement" (*emphasis added*). M.P.E.P. §706.07(a).

Within the non-final Office Action mailed on July 30, 2003, no prior art has been cited against previous claims 30, 39 and 48.

The Response To The Notice Of Non-Compliant Amendment (37 CFR 1.121) filed on November 20, 2003 includes an amendment that wholly incorporated previous claim 30 into independent claim 22 to form amended claim 22. As to previous claim 30, no change in scope was the result of this amendment since previous claim 30 has been presented in its entirety as amended claim 22. No additional amendment to claim 22 has been made.

The Response To The Notice Of Non-Compliant Amendment (37 CFR 1.121) includes an amendment that wholly incorporated previous claim 39 into independent claim 32 to form amended claim 32. As to previous claim 39, no change in scope was the result of this amendment since previous claim 39 has been presented in its entirety as amended claim 32. No additional amendment to claim 32 has been made.

The Response To The Notice Of Non-Compliant Amendment (37 CFR 1.121) includes an amendment that wholly incorporated previous claim 48 into independent claim 41 to form amended claim 41. As to previous claim 48, no change in scope was the result of this amendment since previous claim 48 has been presented in its entirety as amended claim 41. No additional amendment to claim 41 has been made.

But the Final Office Action includes new rejections applied to at least claims 22 (previous claim 30), 32 (previous claim 39) and 41 (previous claim 48) not previously made to claims 30, 39 and 48. Thus, the new rejection of claims 22, 32 and 41 made within the Final Office Action is a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement. Thus, the issuance of a Final Office Action at this time, instead of issuing a non-final Office Action, is premature and improper, as a result.

Withdrawal of the Final Office Action is respectfully requested.

### Conclusion

For the foregoing reasons, all the claims now pending in the present application are allowable, and the present application is in condition for allowance. Accordingly, favorable


reexamination and reconsideration of the application in light of the amendments and remarks is courteously solicited.

If the Examiner has any comments or suggestions that could place this application in even better form, the Examiner is requested to telephone Brian K. Dutton, Reg. No. 47,255, at 202-955-8753 or the undersigned attorney at the below-listed number.

If any fee is required or any overpayment made, the Commissioner is hereby authorized to charge the fee or credit the overpayment to Deposit Account # 18-0013.

Dated: March 19, 2004

Respectfully submitted,

By   
for Ronald P. Kananen  
Registration No.: 24,104  
Brian K. Dutton  
Registration No.: 47,255  
RADER, FISHMAN & GRAUER PLLC  
1233 20th Street, N.W.  
Suite 501  
Washington, DC 20036  
(202) 955-3750  
Attorneys for Applicant